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SEP 1 7 2004

the date shown below.

Typed or printed name

Don Mixon

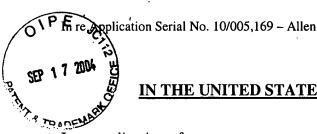
PTO/SB/21 (02-04) Approved for use through 07/31/2006. OMB 0651-0031

Under the Paperwork Reduction Act of 1995, no person	U.S. Pa	tent and Trademark Office; U.S. DEPARTMENT OF COMMERCE ction of information unless it displays a valid OMB control number.
7	Application Number	10/005,169
TRANSMITTAL	Filing Date	March 28, 2002
FORM	First Named Inventor	Catherine Guenther
(to be used for all correspondence after initial filing)	Art Unit	1632
	Examiner Name	Valerie E. Bertoglio
Total Number of Pages in This Submission	Attorney Docket Number	R-687

Tota	al Number of Pages in This Submission		Attorney Docket Number	R-687		
		ENCI	OSURES (Check all that	apply)	
	Fee Transmittal Form Fee Attached Amendment/Reply After Final Affidavits/declaration(s) Extension of Time Request Express Abandonment Request Information Disclosure Statement Certified Copy of Priority Document(s) Response to Missing Parts/ Incomplete Application Response to Missing Parts under 37 CFR 1.52 or 1.53		Drawing(s) Licensing-related Papers Petition Petition to Convert to a Provisional Application Power of Attorney, Revocation Change of Correspondence Addre Ferminal Disclaimer Request for Refund CD, Number of CD(s)	ess		After Allowance communication to Technology Center (TC) Appeal Communication to Board of Appeals and Interferences Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) Proprietary Information Status Letter Other Enclosure(s) (please Identify below):
	SIGNA	TURE O	F APPLICANT, ATTORNE	EY, O	R AGE	ENT
Firm or Individ	Kelly L. Quast, Reg. No. 5	52,141				
Signati	ure Kelly Juan	#				
Date	09-14-04					
	С	ERTIFIC	ATE OF TRANSMISSION	/MAIL	ING	
Lhereb	by certify that this correspondence is h	eing facsir	mile transmitted to the USPTO or	denosi	ted with	the United States Postal Service with

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Catherine GUENTHER et al.

Application No.: 10/005,169

Filed: March 28, 2002

For: Transgenic Mice Containing

NOR1 Gene Disruptions

Examiner: Bertoglio,

Bertoglio, Valerie E.

Art Unit:

1632

Deposit Account: 50-1271

Date: September 14, 2004

PETITION UNDER 37 CFR 1.181 TO WITHDRAW A HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE AN OFFICE

ACTION

Mail Stop Petition

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Applicants hereby petition under 37 C.F.R. § 1.181(a) to withdraw a holding of abandonment in the above referenced application. In a "Notice of Abandonment" mailed August 27, 2004, it was alleged that Applicants failed to timely file a proper response to an Office Action mailed on September 8, 2003. However, Applicants contend that the September 8, 2003 Office Action was never received.

According to the MPEP, if an applicant can adequately prove non-receipt of an Office Action, the Office may grant a petition to withdraw a holding of abandonment, and remail the Office Action. See MPEP § 711.03(c) citing *Delgar v.Schulyer*, 172 USPQ 513 (D.D.C. 1791). The MPEP sets forth the requirements for establishing non-receipt of an Office Action, which Applicants have fulfilled by the statements below and supporting documents enclosed herewith.

I, Kelly L. Quast, registered agent for Deltagen, Inc., hereby declare that a thorough search of the file jacket and docket record was made. I hereby state that no Office Action mailed on or about September 8, 2003 in connection with the above-referenced application was received, entered into the docketing system, or recovered in the file jacket of the above referenced application after the search. In support of these statements, submitted concurrently herewith is a copy of the docket

report for the above referenced application (Deltagen Inc. case number DGEN-0687). In this docket report, no reference is made to any Office Action mailed by the Patent Office on or around September 8, 2003. Also attached herewith is a copy of a docket report for all Deltagen Inc. cases for the time period from September 8, 2003 through March 8, 2004, which does not indicate any actions due for the above referenced case on the dates which fall one, two or three months from the mailing date of the Office Action in question. In fact, the enclosed docket report fails to reference any responses due in connection with the above referenced application. The most recent Office Action entered into the docket record was a three (3) month Office Action mailed December 18, 2002, to which Applicants responded on June 18, 2003.

Applicants submit that the requirements set forth in MPEP § 711.03(c) for petition under 37 C.F.R. § 1.181(a) have been met, and Applicants have supplied the statements and proof required to establish non-receipt of the above referenced Office Action. Therefore, Applicants respectfully request withdrawal of the holding of abandonment.

Applicants note that in July 2004, Applicants' mailing address changed. Applicants believed that the mailing address in connection with all applications filed by Deltagen, Inc. had been properly updated after their move. However, in some applications the address was not correctly changed. As a result, other applications associated with Deltagen Inc. may have outstanding Office Actions that were not received. To determine the appropriate action to take to rectify this situation, Deltagen, Inc. representatives recently communicated with supervisor Amy Nelson at phone number (571) 272-0804, who has suggested that we submit this petition under 37 C.F.R. § 1.181(a).

It is believed that no fees are due in connection with the instant petition. However, the Commissioner is hereby authorized to deduct any fees, including a petition fee should it be deemed required, from the above-noted Deposit Account under Order No. R-687.

Respectfully submitted,

Kelly L. Quast Reg. No. 52,141

Enclosures (2)

DELTAGEN, INC. 1031 Bing Street San Carlos, CA 94070 Tel: 650-569-5375

Fax: 650-569-5280

Country Application

Monday, September 13, 2004

Page: 1

Case Number: DGEN-0687

Country: US

SubCase: 1R

Division: TARGET

United States of America

Case Type: ORD

Application Status: Published

Application Number: 10/005,169

Filing Date: 04-Dec-2001

Publication Number: 0152492

Publication Date: 17-Oct-2002

Patent Number:

Issue Date:

Parent/PCT Number:

Parent/PCT Date:

Parent Issue Number:

Parent Issue Date:

Tax Schedule: SE

Expiration Date:

Confirmation #:

Patent Term Adjustment: 0

Agent:

Agent Reference #:

Remarks: Priority Date:12/6/2000

Country A	pplication
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Monday, September 13, 2004

Page: 2

List Of Actions	•		
Action(s) Due	Due Date		Action Taken
Information Disclosure Stmnt	04-Mar-2002	Due Date	01-Jan-1950
Miss Pts Resp Due	30-Mar-2002	Due Date	01-Apr-2002
1st Extension	30-Apr-2002	Reminder	01-Apr-2002
Information Disclosure Stmnt	04-May-2002	Due Date	17-Jul-2002
2nd Extension	30-May-2002	Reminder	01-Apr-2002
3rd Extension	30-Jun-2002	Reminder	01-Apr-2002
Missing Parts Postcard Due	01-Jul-2002	Due Date	08-Apr-2002
4th Extension	30-Jul-2002	Reminder	01-Apr-2002
Final Deadline	30-Aug-2002	Final	01-Apr-2002
IDS Postcard Due	17-Oct-2002	Due Date	24-Jul-2002
Due Date - Election	19-Oct-2002	Due Date	18-Oct-2002
1st Extension	19-Nov-2002	Reminder	18-Oct-2002
Foreign Filing Due	04-Dec-2002	Due Date	05-Dec-2002
2nd Extension	19-Dec-2002	Reminder	18-Oct-2002
3rd Extension	19-Jan-2003	Reminder	18-Oct-2002
1 Month to Due Date	18-Feb-2003	Reminder	18-Jun-2003
Final Deadline	19-Feb-2003	Final	18-Oct-2002
3 Month Due Date	18-Mar-2003	Due Date	18-Jun-2003
1st Extension	18-Apr-2003	Reminder	18-Jun-2003
US-Restriction Follow Up Date	18-Apr-2003	Due Date	28-Oct-2002
2nd Extension	18-May-2003	Reminder	18-Jun-2003
2 Weeks to Final Date	02-Jun-2003	Due Date	18-Jun-2003
Application Status Check	04-Jun-2003	Due Date	01-Jan-1950
6 Month Final	18-Jun-2003	Final	18-Jun-2003
Office Action Postcard Due	18-Sep-2003	Due Date	01-Jan-1950

User ID: mredlon

Date Created: 29-Nov-2001

Last Update: 16-Dec-2003

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Due Date List By Date , 03-849-2003 To 03-14ar-2004

Due Date	Action Due	Case Number/SubCase/Country	Status	Attorneys
10-Sep-2003	Recorded Assignment Due	DGEN-0883/1R/US	Published	NAV KLQ
Due Date	US-Assignment	<i>Title:</i> Kv1.7 Potassium Ch Relating Thereto	nannel Disruptions, C	Compositions and Methods
11-Sep-2003	Recorded Assignment Due	DGEN-0790/1R/US	Published	NAV KLQ
Due Date	US-Assignment	Title: Metabotropic Glutar Compositions and M		
14-Sep-2003	Recorded Assignment Due	DGEN-0460/1R/US	Pending	RJD NAV
Due Date	US-Assignment	<i>Tüle:</i> RGS2 GENE DISRI METHODS RELAT		
21-Sep-2003	Recorded Assignment Due	DGEN-0440/1R/US	Published	RJD NAV
Due Date	US-Assignment	<i>Title:</i> UBE2G2 UBIQUIT DISRUPTIONS, CC THERETO (amende	MPOSITIONS AN	G ENZYME GENE D METHODS RELATED
24-Sep-2003	Assignment Due	DGEN-0334/1R/US	Pending	RJD
Due Date	US-Assignment	<i>Title:</i> GPR37 ENDOTHEI COMPOSOTIONS		ENE DISRUPTIONS, AND ELATED THERETO
24-Sep-2003	Assignment Due	DGEN-1102/1R/US	Pending	RJD
Due Date	US-Assignment	<i>Tüle:</i> KCNA5 POTASSIU COMPOSITIONS A		NE DISRUPTIONS, AND ELATED THERETO
24-Sep-2003	Assignment Due	DGEN-2111/1R/US	Pending	NAV
Due Date	US-Assignment	<i>Tüle:</i> MOR18-1 OLFACT COMPOSITIONS A		DISRUPTIONS, ELATING THERETO
26-Sep-2003	Request Examination	DGEN-0126/1N/EP	Abandoned	NAV
Due Date		<i>Title:</i> TRANSGENIC MIC RECEPTOR GENE		
26-Sep-2003	Assignment Due	DGEN-0631/1R/US	Pending	KLQ
Due Date	US-Assignment	<i>Title:</i> FPR-RS2 DISRUPT RELATING THERE		IONS AND METHODS
03-Oct-2003	Recorded Assignment Due	DGEN-0393/1R/US	Pending	RJD
Due Date	US-Assignment	<i>Title:</i> Transgenic Mice Cor Pb99 Gene Disruption		Protein-Coupled Receptor
09-Oct-2003	Recorded Assignment Due	DGEN-1249/1R/US	Pending	NAV
Due Date	US-Assignment	Title: MATRIX METALL COMPOSITIONS A (amended)		SRUPTIONS, LATING THERETO
10-Oct-2003	Recorded Assignment Due	DGEN-0278/2CIP/US	Pending	NAV
Due Date	US-Assignment	<i>Title:</i> TARGETED GENE METHODS RELAT	DISRUPTIONS, CO	OMPOSITIONS AND
18-Oct-2003	Recorded Assignment Due	DGEN-1361/1R/US	Published	NAV
Due Date	US-Assignment	<i>Title:</i> Cathepsin G (CTSG) Relating Thereto	Disruptions, Comp	positions and Methods
21-Oct-2003	Recorded Assignment Due	DGEN-0216/1R/US	Pending	NAV
Due Date	US-Assignment	Title: Transgenic Mice Con Domains 6 (MEGF6)	ntaining Multiple E _l	

Pages 1

Due Date List By Date

03-Sep-2003

To 08-Mar-2004

Due Date	Action Due	Case Number/SubCase/Country	Status	Attorneys
21-Oct-2003	Recorded Assignment Due	DGEN-1126/1R/US	Pending	RJD
Due Date	US-Assignment	Title: Transgenic Mice Co Disruptions	ntaining CACNG1	Potassium Channel Gene
21-Oct-2003	Recorded Assignment Due	DGEN-1131/1R/US	Pending	RJD
Due Date	US-Assignment	<i>Title:</i> Kv9.3 POTASSIUM AND METHODS R		UPTIONS, COMPOSITIONS O (amended)
21-Oct-2003	Recorded Assignment Due	DGEN-1156/1R/US	Pending	RJD
Due Date	US-Assignment	<i>Title:</i> HCN4 POTASSIUM AND METHODS R		UPTIONS, COMPOSITIONS O (amended)
21-Oct-2003	Recorded Assignment Due	DGEN-1306/1R/US	Published	NAV
Due Date	US-Assignment	Title: CTSZ Disruptions, (Compositions and M	Methods Relating Thereto
21-Oct-2003	Recorded Assignment Due	DGEN-1372/1R/US	Published	NAV
Due Date	US-Assignment	Title: MO54 Gene Disrupt	ions, Compositions	and Methods Related Thereto
21-Oct-2003	Recorded Assignment Due	DGEN-1406/2CIP/US	Pending	NAV
Due Date	US-Assignment	<i>Tüle:</i> TPP1 DISRUPTION RELATING THERE		NS AND METHODS
21-Oct-2003	Recorded Assignment Due	DGEN-1485/1R/US	Pending	NAV KLQ
Due Date	US-Assignment	<i>Tüle:</i> ROCT DISRUPTIO RELATING THERE		NS AND METHODS
22-Oct-2003	Recorded Assignment Due	DGEN-0298/1R/US	Pending	NAV
Due Date	US-Assignment	<i>Title:</i> ALPHA/BETA HYI COMPOSITIONS A (amended)		DISRUPTIONS, AND ELATED THERETO
22-Oct-2003	Recorded Assignment Due	DGEN-1486/1R/US	Pending	NAV KLQ
Due Date	US-Assignment			RST) GENE DISRUPTIONS, ELATED THERETO
22-Oct-2003	Recorded Assignment Due	DGEN-1504/1R/US	Pending	NAV KLQ
Due Date	US-Assignment .	Title: TETRACYCLINE T COMPOSITIONS A (amended)		KE GENE DISRUPTIONS, ELATED THERETO
23-Oct-2003	Recorded Assignment Due	DGEN-0248/1R/US	Pending	NAV KLQ
Due Date	US-Assignment	<i>Title:</i> MRP3 DISRUPTION RELATING THERE		
23-Oct-2003	Recorded Assignment Due	DGEN-1251/1R/US	Published	NAV
Due Date	US-Assignment	<i>Title:</i> Carboxypeptidase N Relating Thereto	(CPN) Disruptions	, Compositions and Methods
23-Oct-2003	Recorded Assignment Due	DGEN-1494/1R/US	Pending	NAV KLQ
Due Date	US-Assignment	<i>Title:</i> NKT GENE DISRU RELATED THERET		SITIONS AND METHODS
23-Oct-2003	Recorded Assignment Due	DGEN-1546/1R/US	Pending	NAV KLQ
Due Date	US-Assignment	<i>Title:</i> ABC TRANSPORTI COMPOSITIONS A (amended)		<u>.</u>

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Monday, September 13, 2009		Due Date List !	By Date		Page 3
		08-Sep-2003 To	08-Mar-2004		
Due Date	Action Due	Case Number/Sub	Case/Country	Status	Attorneys
23-Oct-2003	Recorded Assignment Due	DGEN-1691/1R	VUS	Pending	RJD NAV
Due Date	US-Assignment	ĭ	NHE5-LIKE SODIU DISRUPTIONS, CO THERETO (amended	MPOSITIONS AND	CHANGER GENE METHODS RELATED
25-Oct-2003	Recorded Assignment Due	DGEN-0737/1R	VUS	Pending	RJD KLQ
Due Date	US-Assignment	(PTP1B PROTEIN TY COMPOSITIONS Al (amended)		ATASE DISRUPTIONS, LATING THERETO
28-Oct-2003	Recorded Assignment Due	DGEN-1327/1F	t/US	Pending	RJD NAV
Due Date	US-Assignment	(UBIQUITIN SPECIF COMPOSITIONS Al (amended)		NE DISRUPTIONS, LATED THERETO
05-Dec-2003	Foreign Filing Due	DGEN-1951/br	/US	Expired	RJD
Final	Foreign Filing		MOP GENE DISRU METHODS RELATI		
05-Dec-2003	Filing Due	DGEN-1951/bra	/US	Expired	RJD
Final	File Application		MOP GENE DISRU METHODS RELATI		
10-Dec-2003	Recorded Assignment Due	DGEN-0718/1R	t/US	Pending	RJD
Due Date	US-Assignment		CASP14 GENE DISI METHODS RELATI		OMPOSITIONS AND (nded)
10-Dec-2003	Recorded Assignment Due	DGEN-1424/1R	/US	Pending	RJD
Due Date	US-Assignment	I	PROTEASOMAL SU DISRUPTIONS, AN RELATED THERET	D COMPOSITIONS	
11-Dec-2003	Recorded Assignment Due	DGEN-0962/2C	CIP/US	Pending	RJD NAV KLQ
Due Date	US-Assignment		APJ CHEMOKINE F AND METHODS RE		PTIONS, COMPOSITIONS (amended)
25-Dec-2003	Final Deadline	DGEN-0438/br/	'US	Expired	RJD
Final	US-Restriction		TRANSGENIC MIC ENZYME GENE DIS		BIQUITIN CONJUGATING
21-Jan-2004	Assignment Due	DGEN-0277/1R	/US	Pending	NAV RJD KLQ
Due Date	US-Assignment	(THYMUS ATROPH COMPOSITIONS Al amended)		
21-Jan-2004	Assignment Due	DGEN-1140/1R	/US	Pending	RJD
Due Date	US-Assignment		CLAUDIN6 DISRUF RELATED THERET		TIONS AND METHODS
28-Jan-2004	Assignment Due	DGEN-1622/2C	CIP/US	Pending	RJD
Due Date	US-Assignment	. (GRID2 GLUTIMATI COMPOSITIONS AI amended)		
11-Feb-2004	Recorded Assignment Due	DGEN-0885/2C	IP/US	Pending	RJD
Due Date	US-Assignment	<i>Title:</i> F		•	Compositions and Methods

Monday, September 18, 2004	
Monday Sonton hors 1848/110	

Due Date List By Date 08-Sep-2003 To 08-Mar-2004

08-Mar-2004

Due Date .	Action Due	Case Number/SubCase/Country	Status	Attorneys
21-Feb-2004	Recorded Assignment Due	DGEN-1054/1R/US	Pending	RJD KLQ
Due Date	US-Assignment	Title: ETL DISRUPTIONS RELATED THERE		S AND METHODS
23-Feb-2004	Chapter I Due (Extended)	DRL-0021/1W/WO	Abandoned	RJD
Final		<i>Title:</i> PROCESS FOR TH OF A GENE-FAMII		AND ITERATIVE DESIGN IBRARY
23-Feb-2004	Chapter II Due (Nat'l Filing)	DRL-0021/1W/WO	Abandoned	RJD
Final		<i>Title:</i> PROCESS FOR TH OF A GENE-FAMII		AND ITERATIVE DESIGN IBRARY
28-Feb-2004	Filing Due	DGEN-0369/c/US	Pending	NAV KLQ
Final	File Application	Title: TRANSGENIC MIC	CE CONTAINING (GPR40 GENE DISRUPTIONS
28-Feb-2004	Foreign Filing Due	DGEN-0369/c/US	Pending	NAV KLQ
Final	Foreign Filing	Title: TRANSGENIC MIC	CE CONTAINING (GPR40 GENE DISRUPTIONS
28-Feb-2004	Foreign Filing Due	DGEN-0396/c/US	Pending	NAV KLQ
Final	Foreign Filing	Title: TRANSGENIC MIC	CE CONTAINING O	GOB-5 GENE DISRUPTIONS
28-Feb-2004	Filing Due	DGEN-0396/c/US	Pending	NAV KLQ
Final	File Application	Title: TRANSGENIC MIC	CE CONTAINING (GOB-5 GENE DISRUPTIONS
02-Mar-2004	Missing Parts Postcard Due	DGEN-1194/1R/US	Pending	NAV
Due Date	US-Missing Parts	<i>Title:</i> TRANSGENIC MIC GENE DISRUPTION		ADAM12 MELTRIN ALPHA
03-Mar-2004	Missing Parts Postcard Due	DGEN-0419/1R/US	Pending	RJD
Due Date	US-Missing Parts	Title: BCNG1 POTASSIU COMPOSITIONS A (amended)		
03-Mar-2004	Missing Parts Postcard Due	DGEN-0717/1R/US	Pending	RJD
Due Date	US-Missing Parts	Title: CATHEPSIN C GEN THERETO (Amende		AND METHODS RELATED
03-Mar-2004	Missing Parts Postcard Due	DGEN-0912/1R/US	Pending	RJD
Due Date	US-Missing Parts	Title: CACNA1E CALCIU COMPOSITIONS A (amended)		
03-Mar-2004	Missing Parts Postcard Due	DGEN-1204/1R/US	Pending	RJD
Due Date	US-Missing Parts	<i>Title:</i> ADAM29-LIKE PROCOMPOSITIONS A (amended)	OTEASE GENE DI	SRUPTIONS, AND
03-Mar-2004	Missing Parts Postcard Due	DGEN-1217/1R/US	Pending	RJD
Due Date	US-Missing Parts	<i>Tüle:</i> SCN9A SODIUM C AND METHODS RI	HANNEL DISRUP	
03-Mar-2004	Missing Parts Postcard Due	DGEN-1413/1R/US	Pending	NAV RJD
Due Date	US-Missing Parts	<i>Title</i> : CAMELL0-LIKE 1 (COMPOSITIONS A (amended)		

Pages 4

Mondey, Sq	tember 13, 2004	Due Date List By Date 08-Sep-2003 To 08-Mar-2004		Pagæ S
Due Date	Action Due	Case Number/SubCase/Country	Status	Attorneys
03-Mar-2004	Missing Parts Postcard Due	DGEN-1415/1R/US	Pending	NAV RJD
Due Date	US-Missing Parts	Title: CML4 ACETYL TR COMPOSITIONS A (amended)		NE DISRUPTIONS, AND ELATED THERETO
05-Mar-2004	Foreign Filing Due	DGEN-1204/br/US	Pending	RJD ·
Final	Foreign Filing	Title: ADAM29-LIKE PR COMPOSITIONS A (amended)		ISRUPTIONS, AND ELATED THERETO
05-Mar-2004	Filing Due	DGEN-1204/br/US	Pending	RJD
Final	File Application	Title: ADAM29-LIKE PR COMPOSITIONS A (amended)		ISRUPTIONS, AND ELATED THERETO

○ by Division Preview before printing ▼ From Date: 08-Sep-2003 To Date: 08-Mar-2004 Status Codes: ○ Active ○ Inactive ○ All Action Type: Action Due: Status(es): Indicator: ○ Area: ○ A	by Due Dateby Due Date (Calendby Attorneyby Attorney (Via Em		Report Format Concise Comprehensive	Remarks Print Do Not Print
Division: Attorney: Inactive Action Type: All Action Due: Status(es):		·	Preview b	efore printing 🗸
Action Type: Action Due: Indicator: Status(es):			Status Cod	O Active
Indicator:		Attorney.		-
Country: Area:		·	Status(e	es):
	Country:	Area:		•